Chapter CLXXXIX.[1]

INQUIRIES OF THE EXECUTIVE.

404. A resolution of inquiry when reported either favorably or unfavorably is privileged for immediate consideration.

A privileged resolution is reported from the floor and not by filing with the clerk.

A privileged resolution of inquiry, on which the question of consideration has been raised and decided adversely, is placed on the calendar although under section 2 of Rule XIII it is not otherwise eligible for reference to the calendar.

A Member may demand the question of consideration; although the Member in charge may demand the floor for debate.

On January 8, 1910,[2] Mr. James R. Mann, of Illinois, from the Committee on Interstate and Foreign Commerce, reported adversely a privileged resolution requesting certain information from the Secretary of Agriculture, with the recommendation that it lie on the table.

Mr. Halvor Steenerson, of Minnesota, made the point of order that under the rule the report should be referred at his request to the calendar as an adverse report.

The Speaker[3] held that the rule applied to nonprivileged reports only, and as the pending report was privileged it did not come within the rule and was not eligible for reference to the calendar except as unfinished business. The Speaker further ruled that privileged reports were made from the floor and not by filing with the clerk.

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[1] Supplementary to Chapter LVII.

[2] Second session Sixty-first Congress, Record, p. 412.

[3] Joseph G. Cannon, of Illinois, Speaker.

Mr. Marlin E. Olmsted, of Pennsylvania, proposed to raise the question of consideration, and the Speaker said:

Consideration on the merits not having begun, the question of consideration may be raised, and if the House, on the question of consideration, declines to consider it, it must be somewhere. It can not remain with the committee, because the committee has reported it. If the House should decline to consider it, then, it seems to the Chair, it would go to the calendar.

Mr. John J. Fitzgerald, of New York, raised the point of order that he did not have the floor.

The Speaker, however, recognized Mr. Olmsted to raise the question of consideration, and the question being put was decided in the negative.

Thereupon the Speaker referred the resolution to the calendar.

405. The motion to discharge a committee from further consideration of a resolution of inquiry is not privileged after its report to the House.

The time of delivery of reports to the clerk fixes the time at which such reports are made and a motion to discharge a committee comes too late after a report has been filed regardless of whether it has been printed.

On May 27, 1926,[1] Mr. George S. Graham, of Pennsylvania, from the Committee on the Judiciary, submitted the report of that committee on the resolution (H. Res. 225) directing the Secretary of the Treasury to furnish certain information.

Immediately thereafter Mr. Fiorello H. LaGuardia, of New York, moved to discharge the Committee on the Judiciary from the further consideration of the resolution.

Mr. Graham made the point of order that, the committee having reported, it was too late to move its discharge.

Mr. LaGuardia took the position that the report had not yet been printed as required by paragraph 2 of Rule XVIII and until so printed it was not on the calendar and the motion to discharge the committee from its further consideration was in order.

The Speaker[2] ruled:

The Chair thinks it would be a highly technical ruling to hold that this bill, which has been reported, is still in the committee.

It is going to be printed. The sole question, as it appears to the Chair, is that the gentle from New York moves to discharge the committee from the consideration of this resolution, and that presupposes that the resolution is still in the custody of the committee, which is not the fact, for it has been reported.

The Chair sustains the point of order.

406. Only resolutions of inquiry addressed to the heads of executive departments are privileged.

The term "Heads of Executive Departments" refers exclusively to members of the President's Cabinet.

A resolution of inquiry addressed to the Federal Reserve Board is not privileged.

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[1] First session Sixty-ninth Congress, Record, p. 10211.

[2] Nicholas Longworth, of Ohio, Speaker.

On February 18, 1929,[1] Mr. Loring M. Black, jr., of New York, moved to discharge the Committee on Banking and Currency from the further consideration of the resolution of inquiry (H. Res. 313) requesting certain information of the Federal Reserve Board, and referred to that committee on February 9.

Mr. Bertrand H. Snell, of New York, made the point of order that the resolution was not privileged because not addressed to the head of an executive department.

The Speaker[2] held:

The question presented is, Is the motion of the gentleman from New York to discharge the Committee on Banking and Currency from consideration of a resolution addressed to the Federal Reserve Board in compliance with clause 5 of Rule XXII privileged as addressed to the head of a department?

The Chair thinks there is no question whatever about the rule. There are a number of precedents. The first one that the Chair recalls is found in Volume III, section 1863, of Hinds' Precedents.

Then in Hinds' Precedents, volume 5, section 7283, occurs the following sentence:

"The words 'heads of departments' is construed to mean the members of the President's Cabinet as is evident from the fact that in 1886 the House did not agree to a proposition to add such offices as the Commissioners of Patents, Internal Revenue, Pensions, etc."

The rule with regard to the privilege of the House floor is also very clear. It provides that among those entitled to the privilege of the House floor are heads of departments, and this has been repeatedly held to refer only to members of the Cabinet.

Under the circumstances, the rule being so absolutely clear and the precedents undeviating, the Chair sustains the point of order made by the gentleman from New York.

407. A resolution of inquiry retains its privilege after reference to the calendar.

On June 21, 1919,[3] Mr. Leonidas C. Dyer, of Missouri, proposed to call up from the calendar a resolution of inquiry directed to the Secretary of War.

Mr. John N. Garner, of Texas, raised the point of order that such resolutions ceased to be privileged when referred to the calendar.

The Speaker[4] ruled that reference to the calendar did not affect the privilege of the resolution, and recognized Mr. Dyer to call up the resolution.

408. On January 4, 1923,[5] Mr. Gilbert N. Haugen, of Iowa, from the Committee on Agriculture, reported as privileged a resolution of inquiry addressed to the President and asking for facts concerning the United States Sugar Equalization Board, which was referred to the House Calendar.

On the following day,[6] the resolution was called up as privileged by Mr. Haugen, and after brief debate was agreed to by the House.

409. A privileged resolution of inquiry is in order on days on which it is in order to move to suspend the rules, and takes precedence of a call of the Unanimous Consent Calendar.

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[1] Second session Seventieth Congress, Record, p. 3667.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] First session Sixty-sixth Congress, Record, p. 1508.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

[5] Fourth session Sixty-seventh Congress, Record, p. 1272.

[6] Record, p. 1308.

While the motion to discharge a committee is not debatable, the motion to discharge a committee and pass a measure before them is subject to debate if undivided.

On March 15, 1920,[1] the Speaker pro tempore, Mr. Joseph Walsh, of Massachusetts, had directed the Clerk to call the Calendar for Unanimous Consent, when Mr. Thomas W. Harrison, of Virginia, moved to discharge the Committee on Interstate and Foreign Commerce from the further consideration of a privileged resolution of inquiry relative to the distribution and consumption of print paper, and pass the resolution.

Mr. Warren Gard, of Ohio, rose to a parliamentary inquiry and asked if the motion was in order on the day set apart for the consideration of bills on the Unanimous Consent Calendar.

The Speaker pro tempore ruled that the motion was privileged.

Mr. Harrison then demanded recognition to debate the motion and the Speaker pro tempore held that the motion was debatable and recognized him for one hour.

410. A resolution of inquiry, though adversely reported, is privileged if on the calendar.

An inquiry for "complete information" when only partial information was available, held not to constitute a request for an investigation, and to be privileged under the rule.

On April 21, 1910,[2] Mr. Thomas D. Nicholls, of Pennsylvania, called up from the Calendar, to which it had been referred through error after being adversely reported, the following:

Resolved, That the Attorney-General of the United States be requested, if not incompatible with the public interest, to furnish the House of Representatives with complete information regarding the arrest, indictment, trial, and conviction in the cases of Antonio I. Villarrel, R. Flores Magon, and Liberado Rivera, now in prison at Florence, Ariz., convicted of violating the neutrality laws, as between the United States and Mexico; also as to whether any other charges against the prisoners are pending, or whether they will regain their freedom at the end of the present term of imprisonment, and when such term in each case will expire.

Mr. Sereno E. Payne, of New York, made the point of order that—

It asks what is not in the hands of the Attorney-General, namely, a complete report with reference to the indictment, the trial, and the arrest. The Attorney-General only has memoranda; and a complete report of the trial would need an investigation. Our report also states that the gentleman was asked by the chairman of the committee to go with him and get what was in the hands of the Attorney-General, and it was ascertained that he did not want what was in the hands of the Attorney-General, but that he wanted an investigation which would disclose all those facts—the complete report of the trial. And we therefore, under those circumstances, regarded it as not a privileged resolution because it asked an investigation.

The Speaker[3] overruled the point of order and said:

The Attorney-General may or may not have that information, but it seems to the Chair that the House is entitled to call for that information; and if he does not have it, he can so respond. Again, also as to whether any other charges against the prisoners are pending, that is a question

[1] Second session Sixty-sixth Congress, Record, p. 4338.

[2] Second session Sixty-first Congress, Record, p. 5135.

[3] Joseph G. Cannon, of Illinois, Speaker.

of fact. It is true the Attorney-General may not have the information, but he may have, and that is as susceptible of an answer according to the facts as it would be if he did not have the knowledge.

411. The rule authorizing reference to the Calendar of Adverse Reports, on request, does not apply to privileged resolutions of inquiry.

Clause 2 of Rule XIII applies to nonprivileged reports only.

A resolution of inquiry adversely reported to the House and undisposed of becomes unfinished business and may be called up at the will of the House.

The Member presenting a committee report from the floor is entitled to prior recognition.

On January 8, 1910,[1] Mr. James R. Mann, of Illinois, from the Committee on Interstate and Foreign Commerce, presented the adverse report of that committee on a resolution of inquiry authorizing the Secretary of Agriculture to inform the House if Executive orders had been issued suspending the operations of the pure food and drugs act, with the recommendation that the resolution lie on the table.

Thereupon, Mr. Halvor Steenerson, of Minnesota, the author of the resolution, requested that the report be referred to the calendar under clause 2 of Rule XIII.

The Speaker[2] held: said:

The gentleman, the Chair presumes, relies—and the Chair proceeds without objection from the gentleman from Illinois—on Rule XIII, clause 2, which as is follows:

"All reports of committees, except as provided in clause 61 of Rule XI"—

That refers to privileged reports, and this is a privileged report—

"together with the views of the minority, shall be delivered to the Clerk for printing and reference to the proper calendar under the direction of the Speaker."

Then, on the next page:

"Provided, That bills reported adversely shall be laid on the table, unless the committee reporting a bill, at the time, or any Member within three days thereafter, shall request its reference to the calendar to which it shall be referred, as provided in clause 1 of this rule."

Now, this rule applies to nonprivileged matter; but under another rule this is a privileged report, and the Chair thinks it does not come within the rule just read, being privileged.

The report now being made on a privileged resolution, whether it was made in time or not, the matter is before the House, and may not be sent to the calendar under the rule relating to adverse reports or reports not privileged.

But in privileged matters there is a distinction, the Chair will state, between Rule XIII and Rule XI. The rule that the gentleman has in mind applies to nonprivileged matters and does not apply to privileged matters, which is provided for in another rule. *It can go on the calendar as unfinished business, subject to be called up when the House desires to consider it.*

Mr. Steenerson then proposed to proceed in debate when the Speaker ruled:

The rule is well established in the practice of the House that the Member reporting a resolution from the committee is entitled to recognition.

412. A resolution of inquiry undisposed of at adjournment retains its privilege and is the unfinished business when that class of business is again in order under the rules.

While the motion to lay on the table is not debatable, the chairman of a committee reporting a proposition to the House with the recommen-

[1] Second session Sixty-first Congress, Journal, p. 137. Record, p. 412.

[2] Joseph G. Cannon, of Illinois, Speaker.

dation that it be laid on the table is entitled to recognition for debate before moving to lay on the table.

While members of the committee are entitled to priority of recognition for debate, a motion to lay a proposition on the table is in order before the Member entitled to prior recognition for debate has begun his remarks.

On July 2, 1913,[1] Mr. Henry D. Clayton, of Alabama, from the Committee on the Judiciary, submitted as privileged a report on the following resolution with the recommendation that it lie on the table:

Resolved, That the Attorney General be, and he is hereby, instructed to transmit to the House of Representatives copies of all correspondence and other papers and memoranda on file in the office of the Attorney General or referred by the President to the Attorney General relating to the prosecution or trial of Maury Diggs and Drew Caminetti, or either of them, for violation of the Mann White Slave Act.

Mr. James R. Mann, of Illinois, asked time for debate, when Mr. Clayton took the position that the request could not be granted as the motion to lay on the table was not debatable.

The Speaker[2] ruled that while the motion to lay on the table is not debatable the chairman having reported a privileged resolution with the recommendation that it lie on the table, was entitled to an hour or any part thereof before offering the motion to lay on the table.

Debate continued until adjournment, and on July 15,[3] during a call of the committees, Mr. Mann demanded the regular order and said:

Then I will take the liberty of reminding the Chair that a highly privileged matter was pending before the House and is still pending before the House as the unfinished business, and hence is the regular order; namely, a report from the Committee on the Judiciary recommending that the resolution offered by the gentleman from California, Mr. Kahn, lie on the table.

The Speaker said:

If the gentleman makes such a demand, then it is the regular order.

Debate was resumed on July 18,[4] when Mr. Clayton, having withdrawn his motion to lay on the table in order to permit further debate, Mr. Joseph W. Byrns, of Tennessee, demanded recognition to offer the motion. Mr. Mann made the point of order that the chairman of the committee, having withdrawn his motion, was entitled to prior recognition to debate the resolution. The Speaker held that the chairman was entitled to priority of recognition for debate, but a motion to lay a proposition on the table is in order before the Member entitled to prior recognition for debate has begun his remarks, and recognized Mr. Byrns.

413. A resolution of inquiry may be reported at any time, and, when reported, remains privileged until disposed of.

No objection having been made to the reference of a resolution of inquiry adversely reported, it was held on one occasion that it could then

[1] First session Sixty-third Congress, Record, p. 2311.

[2] Champ Clark, of Missouri, Speaker.

[3] Record, p. 2442; Journal, p. 213.

[4] Record, p. 2538.

be called up from the calendar only by authorization of the committee reporting it.

A resolution of inquiry, to enjoy its privilege, should caR for facts rather than opinions and should not require an investigation.

A special order providing certain business "Shall be in order for consideration" does not preclude consideration of other privileged business which the House may prefer to consider.

A request in a resolution of inquiry for "The reason why" is a request for an opinion, and destroys its privilege.

On December 13, 1924,[1] Mr. Fiorello H. LaGuardia, of New York, claimed the floor to call up for consideration the following resolution of inquiry which had been reported adversely by the Committee on the Judiciary and by his request referred to the calendar in the absence of a point of order against such reference:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to inform the House of Representatives, if not incompatible with the public interest, as follows:

1. The reason and cause for the dismissal of Robert J. Owens, a prohibition agent, assigned to the prohibition office, New York City, and the facts and evidence upon which such dismissal was based.

2. Whether or not the said Robert J. Owens was given a hearing; and if so, when and where such hearing was held.

3. The disposition of a certain amount of liquor seized by said agent, Robert J. Owens, on or about August 1, 1924, in the premises known as 142 East Fifty-fourth Street, Borough of Manhattan, city of New York, State of New York.

4. Whether or not a hearing was held before a United States commissioner or other officer authorized by law to determine the legality of the possession of the said liquor.

5. Facts, evidence, and proof of the legality of the possession of the said liquor.

6. Such other information in the possession of the department or any bureau thereof concerning the seizure and disposition of said liquor and the dismissal from the service of the said Robert J. Owens.

Mr. L. C. Dyer, of Missouri, made the point of order that Mr. LaGuardia was not authorized by the committee reporting the bill to call up the resolution for consideration.

Mr. Nicholas Longworth, of Ohio, made the further point of order that the resolution was not privileged in that it called for an opinion rather than for facts.

Mr. Everett Sanders, of Indiana, submitted the additional point that by special order the day had been set apart for the consideration of certain bills on the Private Calendar, and consideration of the resolution of inquiry was not in order until they were disposed of.

In discussing the point of order presented by Mr. Dyer, Mr. Louis C. Cramton, of Michigan, said:

Mr. Speaker, I am not interested in the subject matter of the resolution. I am, however, somewhat jealous of the protection of the rights of Members and the protection of the rights of minorities with reference to resolutions of inquiry. If it should be held that the point of order is correct, it means to do away with the right which a minority heretofore has had with reference to resolutions of inquiry. I do not believe that is desirable.

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[1] Second session Sixty-eighth Congress, Journal, p. 49; Record, p. 604.

The point of order is that a report having been made upon the resolution, that report having been adverse, that no one now can call up that resolution and the report on it except a member of the committee. All that the rule definitely requires is that the committee shall report, but the report of the committee is an idle ceremony unless it does lead to possible consideration by the House. If it is to be held that the resolution itself when reported has no privilege, then it is easy to see how a majority in this House can entirely put the lid on resolutions of inquiry. The majority in the House having control of the Rules Committee, having a majority on the committees, can secure an adverse report, upon a resolution of inquiry. Is it to be understood that that adverse report absolutely prevents the getting up of a resolution for a vote by the House? It would be strange, indeed, if a man who introduces a resolution shall be held to lose the right to call it up in this House—a right equal to that of any other Member—unless there is something explicit in the rules to that effect, and there is not.

Whether it is a favorable or adverse report is immaterial. But if it should be held that a privileged right to consideration does not exist, then why should there be, first, a provision in the rule to require a report which could not be brought before the House? And, secondly, if it is not privileged, how could a joint motion to discharge the committee and call up a bill for consideration, to have both joined in one privileged motion, and both when joined together repeatedly sustained as privileged? The resolution of inquiry, from its very nature, is to be used by the minority. The majority in harmony with the administration can generally get their information, but if you are to hold that an adverse decision of a committee of this House shall prevent the House itself from having the right to decide the question, then you have done away with the resolution of inquiry.

The Speaker [1] said:

Three points of order are made. As to the day, the Chair finds that the order yesterday was simply that bills on the Private Calendar, reported from the Committee on Claims, be in order for consideration to-morrow. It seems to the Chair that does not prevent the consideration of other privileged business, if the House so desires.

The second point of order is: Can it be brought up by the gentleman from New York [Mr. LaGuardia], he not being a member of the committee which made the report? This rule was adopted in 1880, and when it was first reported by Mr. Randall it simply provided that any motion of inquiry should be referred to a committee. Then it was contended by some Members that there should be some constraint on that committee, and, therefore, the addition was made that such committee should report within one week, and since then, without any special provision in the rule, it has been held that if the committee did not report within that week the Member who offered the resolution should have the right to bring it up as a matter of privilege. There is no special reason, given in any decision the Chair has been able to find, for establishing that right but the Chair supposes it is to compel the committee to do its duty. It is logical, if the committee does not do its duty, that the House should have the right, without the action of the committee, to immediately proceed to consider the subject. But there is nothing in the rule which provides what shall be done when the committee does report, and consequently it has been held that such a report is privileged, and, it seems to the Chair, it must stand just like any other privileged report of a committee. The Chair can see no reason for any difference in the privilege, whether it is adverse or whether it is favorable. But the Chair is unable to see any reason why this case should be held by decision to be different from all other cases. It is always held that the only person who can bring up a bill is the Member authorized by the committee. There are some privileged bills now on the calendar which are subject to be brought up, but nobody can bring them up except the member of the committee authorized to do so, and in the absence of any expression in the rules or of any precedents by a decision the Chair does not feel authorized to hold that there is any different right in this case than in any other case.

Then as to the point that is made by the gentleman from Ohio [Mr. Longworth], the rulings have been continuous that such a resolution must call simply for the facts and not for opinions. It does seem to the Chair that calling for the reason why the act was done is calling for an opinion

[1] Frederick H. Gillett, of Massachusetts, Speaker.

by the official who performed that act. It is asking his motive. Of course, the language could be drawn so as to ask the facts on which he based his action, but to ask the motive and the reason of his action, it seems to the Chair, also makes this resolution subject to the point of order. So the Chair sustains the point of order.

414. Resolutions of inquiry when reported from the committee to which referred are privileged.

Instance wherein an amendment was recommended to protect the confidential files of the department.

In response to a request for information "not incompatible with the public interest," the head of a department replied that it would be incompatible with the public interest to submit the information requested.

On May 14, 1932,[1] Mr. Charles R. Crisp, of Georgia, from the Committee on Ways and Means, submitted, as privileged, a report on a resolution requesting certain information from the Secretary of the Treasury and asked for its immediate consideration.

The committee in reporting the bill recommended that it be amended by incorporating the following:

If not incompatible with the public interest.

Mr. Carl R. Chindblom of Illinois, in discussing the resolution explained that the reason for incorporating the amendment was that the inquiry related to—

the production to the House of all the testimony, evidence, exhibits, documents, and records, matters very clearly of a confidential nature, which have come to the Treasury Department in the course of an investigation. In my opinion, if this shall become anything like a common practice, it will utterly destroy the possibility of the Treasury Department and of the Tariff Commission securing evidence from outside sources, because, if these matters can not be treated confidentially by the representatives of the Government who obtain this information from manufacturers, producers, and tradesmen, then, of course, we will never get the information. The committee amendment, reading "if not incompatible with the public interest," will, in my opinion, protect the Government as well as private interests.

After brief debate, the resolution was agreed to, and on May 31, the Speaker[2] laid before the House a communication from the Secretary of the Treasury reading in part as follows:

TREASURY DEPARTMENT,
Washington, May 26, 1932.

DEAR MR. SPEAKER: I am in receipt of House Resolution 213, dated May 14, 1932, requesting that if not incompatible with the public interest I submit to the House of Representatives, as soon as practicable, all the testimony, evidence, exhibits, documents, and records presented in or pertaining to the investigation conducted under the authority of the antidumping act, 1921, relating to the importation of ammonium sulphate.

In passing the antidumping act the Congress decided to provide that the initial decisions as to the existence of dumping should be made by the Secretary of the Treasury in accordance with administrative procedure. It has been the practice of the department in acting under this statute to treat all information furnished by interested persons as confidential and not to disclose it unless such persons consent to the disclosure. This practice is founded upon the necessity for the department to obtain complete information concerning manufacturers' and importers' business transactions which it would be practically impossible to obtain if those furnishing the infor-

[1] First session Seventy-second Congress, Record, p. 10207.

[2] John N. Garner, of Texas, Speaker.

mation did not understand it would be treated as confidential and not divulged without their consent.

As consent has not been given to the disclosure of the information contained in the record before the Treasury Department, I am of the opinion that it would be incompatible with the public interest to comply with the request contained in the resolution.

Very truly yours,

OGDEN L. MILLS,
Secretary of the Treasury.

415. The motion to discharge a committee is not debatable, and the proposition to lay on the table a motion to discharge a committee from the consideration of a resolution of inquiry is in order and takes precedence even though the proponent of that motion demands the floor.

The motion to lay on the table is not debatable.

On the recapitulation of a yea-and-nay vote a proposition to correct a vote is not in order until the recapitulation has been concluded.

A motion to discharge a committee from consideration of a resolution of inquiry, when privileged, is not debatable.

On February 1, 1919,[1] Mr. Halvor Steenerson, of Minnesota, as a privileged question, moved to discharge the Committee on Agriculture from the consideration of a resolution of inquiry, requesting of the President information relative to action toward putting into effect the guaranteed price of wheat. This motion had not been reported within the time prescribed by the rule.

Mr. Asbury F. Lever, of South Carolina, made the point of order that the motion was not privileged which was overruled by the Speaker.[2] Mr. Lever then proposed to yield time for debate, when the Speaker held that the motion was not debatable.

415a. On April 8, 1908,[3] Mr. Sereno E. Payne moved to lay on the table a motion by Mr. Dorsey W. Shackleford, of Missouri, to discharge the Committee on Ways and Means from the further consideration of a privileged resolution of inquiry.

Mr. Shackleford made the point of order that he was entitled to recognition as the proponent of the motion to discharge the committee, and Mr. Payne did not have the floor to offer a motion.

The Speaker[4] said:

The motion to lay on the table takes precedence, even extending to the recognition that is given to the gentleman. The Chair has verified his recollection. Under the rule a motion to discharge the committee is not debatable, and a motion to lay on the table takes precedence. Neither motion is debatable, so far as that is concerned.

The question being taken, the yeas were 126, and the nays were 123.

Mr. John Sharp Williams, of Mississippi, demanded a recapitulation of the vote, which was ordered.

During the recapitulation Mr. Dorsey W. Shackleford, of Missouri, addressed the chair and proposed to challenge the correctness of the vote.

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[1] Third session Sixty-fifth Congress, Journal, p. 141. Record, p. 2522.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixtieth Congress, Record, p. 4516.

[4] Joseph G. Cannon, of Illinois, Speaker.

The Speaker said:

After the recapitulation is completed corrections can be made.

416. A committee having been discharged from the further consideration of a resolution of inquiry, debate is in order under the hour rule unless the previous question is ordered.

On February 26, 1919,[1] the House agreed to a motion offered by Mr. Albert Johnson, of Washington, to discharge the Committee on Military Affairs from the further consideration of a privileged resolution of inquiry relating to charges of malfeasance against certain Army officers.

Thereupon Mr. Finis J. Garrett, of Tennessee, inquired if debate was then in order.

The Speaker[2] replied that discussion was then in order and a Member recognized was entitled to one hour.

417. The motion to discharge a committee from the consideration of a resolution of inquiry is not debatable, but the motion having been agreed to, the resolution is before the House and subject to debate under the hour rule.

The House having agreed to a motion to discharge a committee from further consideration of a resolution, the proponent of the motion was recognized to debate the resolution.

On June 5, 1919,[3] Mr. Thomas L. Blanton, of Texas, moved to discharge the Committee on Expenditures in the Department of Agriculture from consideration of a resolution of inquiry which had been referred to the committee more than a week previous.

Mr. J. Hampton Moore, of Pennsylvania, addressed the chair, when Mr. Blanton made the point of order that the motion to discharge a committee was not debatable.

The Speaker[4] sustained the point of order.

The motion was agreed to and the question recurring on the adoption of the resolution, Mr. Moore arose and asked if debate was in order.

The Speaker replied that the question was debatable and recognized Mr. Blanton.

418. A point of order may be raised against a substitute reported by committee, although the original resolution may have been privileged.

A resolution calling for "reasons which make it inexpedient" to take specified action was held to ask for opinions rather than facts, while a resolution asking "what facts make expedient" such action was admitted under the rule.

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[1] Third session Sixty-fifth Congress, Record, p. 4350.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixty-sixth Congress, Record, p. 696.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

On April 14, 1910,[1] Mr. Ebenezer J. Hill, of Connecticut, from the Committee on Expenditures in the Treasury Department, submitted as privileged the following report:

The Committee on Expenditures in the Treasury Department, to which was referred House resolution 480, respectfully report that they have had the same under consideration, and recommend the adoption of the following substitute:

Resolved, That the President be, and he is hereby, requested to inform the House if there still exist any reasons which make it inconvenient or inexpedient that a thorough examination at this time be made by the House of Representatives of the frauds in the customs service mentioned by the President in his annual message to the Congress at this session.

Mr. John J. Fitzgerald, of New York, made the point of order that the substitute in asking for reasons was not entitled to privilege.

The Speaker[2] ruled:

The substitute reported for this resolution is the same as the resolution, striking out the words "what facts which make it inexpedient" and inserting "what reasons which make it inexpedient."

Now, the Chair thinks it very likely that the condition may or may not have changed since the sending of the annual message. The Chair, of course, is not informed, but thinks the annual message referred to a condition, to facts in esse, in general terms. The substitute asks an expression of opinion—it might fairly be so construed—as to the reasons that exist, and so forth. This rule has been strictly construed. If this resolution or substitute is not privileged it would go upon the calendar, to be disposed of in the future as business not privileged. If it be privileged, it can be disposed of at this time.

The Chair is inclined to sustain this point of order; perchance there may be reasons other than the facts. The Chair therefore sustains the point of order.

Thereupon, Mr. Fitzgerald moved to discharge the committee from the consideration of the original resolution which was as follows:

Resolved, That the President be, and he is hereby, requested to inform the House what facts, if any, now exist which make inexpedient a thorough examination at this time by the House of Representatives of the frauds in the customs service mentioned by the President in his annual message to the Congress at this session.

Mr. Hill made the point of order that the original resolution in calling for facts which made the examination inexpedient asked for an opinion and was therefore without privilege.

The Speaker said:

Now, the resolution asks the President to inform the House of the facts, if any now exist, which make inexpedient a thorough examination at this time by the House of Representatives of the frauds in the customs service mentioned by the President in his annual message to the Congress at this session. The President, in the annual message just read, said that it would be embarrassing in the administration of justice to disclose the hand of the Department of Justice and of the Executive, and that it might give immunity, perchance, as well as embarrass the administration. Now, the resolution wants to know whether the condition has passed that was referred to by the President in his annual message. It is that which the House calls for, and the Chair overrules the point of order.

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[1] Second session Sixty-first Congress, Record, p. 4689.

[2] Joseph G. Cannon, of Illinois, Speaker.

419. A resolution of inquiry asking "why" certain action had not been taken was held to be a request for facts and not for opinions, and therefore to be privileged.

A privileged resolution should be reported from the floor and, if reported through the basket, loses its privilege, but if ruled out of order on that ground may be immediately submitted from the floor without loss of privilege.

On April 19, 1910,[1] Mr. John H. Stephens, of Texas, from the Committee on Indian Affairs, reported as privileged a resolution addressed the Secretary of the Interior making inquiries regarding certain cases pending before the department involving the citizenship of various Indians, and concluding as follows:

Third. Whether the said cases were considered with the same deliberation and with the average expenditure of time thereon as had been the practice of the department for several years prior thereto; and if not, why not.

Mr. Sereno E. Payne, of New York, made the point of order that the phrase "if not, why not" called for an opinion.

Mr. James R. Mann, of Illinois, made the further point of order that the bill had been reported through the basket instead of from the floor, thus precluding the reservation of points of order and was therefore deprived of any privilege to which it might have been entitled.

The Speaker[2] said:

Under the rule, this being a privileged report, the report should be made by the committee from the floor of the House, and not by dropping it in the basket. The Chair has a precedent in a ruling Mr. Speaker Reed on March 26, 1890. The report was at once made from the floor, as the gentleman might do now.

The Chair sustains the point of order.

Whereupon, Mr. Stephens forthwith submitted the report from the floor, and the Speaker continued:

Now, the Committee on Indian Affairs giving the gentleman authority to make the report, and it having been made not upon the floor of the House, the gentleman from Texas, from the Committee on Indian Affairs, makes the report on the resolution which he claims to be privileged. As to the point of order made by the gentleman from New York, Mr. Payne, to the following language: And if not, why not—

It seems to the Chair that this does not call for an expression of an opinion, but for a statement of fact; therefore the Chair overrules the point of order.

420. A resolution asking "the cause of delay" was held to be a request for facts and not a request for an opinion, and therefore privileged under the rule.

On June 25, 1910,[3] Mr. Eugene F. Kinkead, of New Jersey, called up, as privileged, the following resolution of inquiry:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to report to the House of Representatives the cause or causes of delay in the Auditor's Office of the War Depart-

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[1] Second session Sixty-first Congress, Record, p. 4987.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Sixty-first Congress, Record, p. 9106.

ment in the matter of the adjudication of claims filed by veterans of the civil war for back pay, bounty, and so forth.

Mr. James R. Mann, of Illinois, made the point of order that the resolution called for an expression of opinion rather than facts and was therefore not privileged.

The Speaker [1] overruled the point of order.

421. A resolution asking for the "cost" of an extended undertaking, an audit of which might give rise to a difference of opinion, was construed as a request for facts and not for opinions.

On August 19, 1911,[2] Mr. James M. Cox, of Ohio, offered a motion to discharge the Committee on Expenditures in the War Department from consideration of the following resolution which had been referred to the committee more than one week previously.

Resolved, That the President of the United States be, and he is hereby, requested to submit a statement to the House showing the cost which has accrued to the Government of the United States from the beginning of, and as the result of, the occupation of the Philippine Islands by the United States.

Mr. James R. Mann, of Illinois, raised a question of order and said:

That is a mere matter of opinion. No two persons, with the same set of books before them, would arrive at the same results as to the cost resulting from the occupation of the Philippine Islands. The resolution does not ask for the cost in the Philippine Islands. No one knows whether you could differentiate this cost from the cost of the Boxer revolution in China.

We had troops in the Philippine Islands at the time of the Boxer revolution. Who will say whether the cost of sending those troops there should be charged to the Philippine occupation or to our protecting our interests in China? Who will say whether the cost of fortifying Pearl Harbor after our annexation of Hawaii was a result of our occupation of the Philippine Islands? Already two reports have been asked for and made. The gentleman criticizes those reports because they are fragmentary and not complete, and the only effect of the passage of this resolution, and of obtaining the information which in the opinion of the President should be sent under it, would be to criticize somebody because that information did not include something that somebody thought it ought to include, or did include something that someone thought it ought to not include.

The rule is, Mr. Speaker, that a resolution is not privileged which calls upon a department of the Government to exercise its judgment as to what should be done. All you can call for is specific information. Here is a resolution requiring the President to indicate his judgment as to what are the costs resulting from the occupation of the Philippine Islands. I do not think we ought to pass a resolution asking the President for his opinion on a subject for the purpose of criticizing that opinion because it does not happen to agree with our opinion.

The Speaker [3] ruled:

Finding out how much the Philippine Islands cost is purely a question of arithmetic, and the point of order is overruled.

422. A resolution of inquiry to enjoy its privilege should call for facts rather than opinions.

The privilege of a resolution of inquiry may be destroyed by a preamble.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] First session Sixty-second Congress, Record, p. 4201.

[3] Champ Clark, of Missouri, Speaker.

A resolution of inquiry should not require an investigation, but if on its face it calls for facts, the chair is not required to investigate the probability of the existence of those facts.

A request for facts "on which he based" certain charges was held not to constitute a request for an opinion.

If a portion of a resolution of inquiry is without privilege the entire resolution is without privilege.

On August 12, 1913,[1] Mr. Frank W. Mondell, of Wyoming, moved to discharge the Committee on Ways and Means from the further consideration of the following resolution referred to that committee more than a week previously:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to transmit to the House of Representatives the facts in his possession on which he based the charge recently made by him that the recent decline in the price of United States 2 per cent bonds is due "almost wholly to what appears to be a campaign waged with every indication of concerted action on the part of a number of influential New York City banks to cause apprehension and uneasiness about these bonds in order to help them in their efforts to defeat the currency bill."

That the Secretary of the Treasury is also hereby directed to inform the House as to the facts on which he based his statement, as follows: "That nothing has occurred to impair the value of the 2 per cent bonds, but the amendment already adopted by the Banking and Currency Committee of the House enhances their intrinsic value," together with a copy of the amendment thus referred to by him.

Mr. Oscar W. Underwood, of Alabama, made the point of order that the resolution was a request for an opinion and was based on statements the authenticity of which could be ascertained only by an investigation.

After extended debate the Speaker[2] ruled:

The practice in regard to a resolution of this kind is this, that it is in order if it calls for facts only or information only. It does not make any difference which one of the two words is used. But it is out of order if it calls for an opinion or an investigation. If part of the resolution is bad, it is all bad.

It may be that the Secretary of the Treasury used the language quoted here. The Chair does not know, and it is none of his business to inquire. The Secretary may not have had any facts whatever as to the second proposition. The Chair does not pronounce an opinion whether he had or had not any facts on which to base the statement—

That nothing has occurred to impair the value of the 2 per cent bonds, but the amendment already adopted by the Banking and Currency Committee of the House enhances their intrinsic value if the Chair undertook to make up his own mind about the question whether the Secretary of the Treasury had facts on which to base an opinion he would have to go on an exploring expedition to find out what the Secretary was talking about.

All that the Chair is required to pass on is this: Is this resolution in proper form and language in the light of the rules, practices, and precedents of the House? The Chair thinks it is, because on its face it simply calls for facts—merely that and nothing more. Therefore the Chair is constrained to overrule the point of order made by the gentleman from Alabama.

423. A resolution inquiring as to the "result" of certain proceedings was held to be a request for facts and therefore entitled to privilege.

On January 28, 1919,[3] Mr. Norman J. Gould, of New York, moved to discharge the Committee on the Judiciary from the further consideration of the following resolution, which had been referred to the committee more than one week previously:

[1] First session Sixty-third Congress, Record, p. 3315; Journal, p. 371.

[2] Champ Clark, of Missouri, Speaker.

[3] Third session Sixty-fifth Congress, Record, p. 2216.

Resolved, That the President is hereby requested to inform the House of Representatives of the result, in detail, of his administration of the provisions of the so-called Overman Act, approved May 20, 1918, entitled "An act authorizing the President to coordinate or consolidate executive bureaus, agencies, and offices, and for other purposes, in the interest of economy and the more efficient concentration of the Government."

Mr. Edwin Y. Webb, of North Carolina, made the point of order that the resolution was not privileged for the reason that it called upon the President to express an opinion as to the result in question.

The Speaker [1] overruled the point of order.

424. The report of the committee on a resolution of inquiry does not affect its privileged status, and such resolution is privileged for consideration from the time it is placed on the calendar.

An inquiry as to whether "facts exist to justify" a course of procedure was held to be a request for opinions rather than for facts and therefore not within the rule.

On February 20, 1919,[2] Mr. Charles E. Fuller, of Illinois, proposed to call up as a privileged resolution of inquiry the following:

Resolved, That the President, if not incompatible with the public interest, be requested to communicate to the House what, if any, facts exist to justify the War Trade Board in refusing license to American manufacturers to export manufactured goods to citizens of neutral countries with which we are not and have not been at war; and what, if any, facts exist to justify the refusal of the said War Trade Board to permit American manufacturers to communicate with their customers in such countries in regard to future business.

Mr. Thetus W. Sims, of Tennessee, made the point of order that the resolution having been reported by the committee and being on the calendar, was no longer entitled to a privileged status.

The Speaker [1] held that the committee could not by reporting a resolution of inquiry destroy its privilege as such, and overruled the point of order.

Mr. Sims then made the further point of order that the resolution, in asking for facts justifying the refusal of licenses, asked for opinions.

The Speaker sustained the point of order.

425. A resolution of inquiry asking for a citation of "the authority" under which certain action had been taken was held to call for facts rather than opinions.

On January 27, 1921,[3] Mr. Julius Kahn, of California, by direction of the Committee on Military Affairs, reported as privileged a resolution of inquiry asking for "the authority" under which the Postmaster General, the Secretary of War, and the Secretary of the Navy had purchased for their respective departments certain German airplanes.

Mr. Finis J. Garrett, of Tennessee, made the point of order that the resolution was not privileged for the reason that in asking for a citation of authority it called for opinions rather than for facts.

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[1] Champ Clark, of Missouri, Speaker.

[2] Third session Sixty-fifth Congress, Record, p. 3867.

[3] Third session Sixty-sixth Congress, Record, p. 2127.

The Speaker [1] said:

The Chair thinks that the authority upon which the Secretary acted is a matter of fact, and therefore the Chair overrules the point of order.

426. A resolution inquiring "Under the authority of what law" certain actions were taken, was construed to ask for facts rather than opinions.

On February 16, 1923,[2] Mr. Louis C. Cramton, of Michigan, moved to discharge the Committee on the Judiciary from the further consideration of a resolution in part as follows:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to inform the House of Representatives, if not incompatible with the public interest, as follows:

* * * * * * * *

3. If any such rules or regulations have been so adopted or put in force, or any such liquors have been so imported since January 17, 1920, under the authority of what law, if any, the Treasury Department acted in adopting or putting in effect such rules or regulations or in permitting such importations.

Mr. Finis J. Garrett, of Tennessee, made the point of order that the resolution asked for an opinion rather than for facts in that it required a construction of law, and was therefore a request for an opinion.

The Speaker [1] overruled the point of order.

427. The privilege of a resolution of inquiry is destroyed by a preamble reciting an assertion of fact.

Resolutions the adoption of which would commit the House to an assertion of fact do not come within the privilege.

A resolution requiring an investigation is not privileged under the rule.

The privilege of a resolution of inquiry, when in question, is strictly construed.

On March 14, 1908 [3] Mr. Thomas W. Hardwick, of Georgia, offered, as privileged, a motion to discharge the Committee on Interstate and Foreign Commerce from the further consideration of a resolution, asking for data reported to the President under a provision of law professed to be quoted in a preamble prefacing the resolution.

Mr. William P. Hepburn, of Iowa, made the point of order that the preamble destroyed the privilege.

The Speaker [4] quoted the rule relating to resolutions of inquiry and said:

There is nothing specific in the rule that makes the resolution privileged, but there has been a long line of decisions respecting resolutions of this kind that fairly well settle this point of order, and it has been held in the rulings of the Chair from time to time that if there is anything in the resolution, or in the preamble, for that matter, because the resolution and the preamble would have to be voted upon separately, which is aside from the purposes of a resolution of inquiry, then that destroys the privilege.

If the resolution itself were adopted, it identifies nothing. In the opinion of the Chair it would be unavailing. But suppose the resolution is adopted, and then the vote comes upon the

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Fourth session Sixty-seventh Congress, Record, p. 3788.

[3] First session Sixtieth Congress, Record, p. 3315.

[4] Joseph C. Cannon, of Illinois, Speaker.

preamble, which professes to recite the law in part and in part not to recite the law. Let us assume that the preamble is voted down, as it might or might not be. The House would then be in the condition of having adopted a resolution that is unavailing. The value of the resolution is to call for information, and it should be strictly construed in the interests of the privileges of the House in order that the rule may be preserved. Therefore the Chair is of opinion, for the reasons assigned, that the preamble destroys the privilege of the resolution.

This preamble throws the burden upon the House to make an investigation of facts for itself as to whether the preamble correctly recites the law or as to whether the words not in quotations heretofore read by the Chair, are a part of the law or whether they are aliunde to the law, and such an investigation, whether it be little or much, is a distinct matter to which the House should not be brought in considering a privileged resolution of inquiry. Therefore the Chair sustains the point of order.

428. A resolution of inquiry asking "why" a certain course of action has been followed is a request for reasons and is without privilege.

On January 29, 1917,[1] Mr. Edward Keating, of Colorado, moved, as a privileged motion, to discharge the Committee on Reform in the Civil Service from the consideration of a resolution of inquiry requesting the President to inform the House "why," in the administration of the civil-service law, women were "denied appointment or promotion."

Mr. John J. Fitzgerald, of New York, having raised a question of order against the privilege of the resolution, the Speaker[2] said:

It destroys the privilege. You might just as well ask him in so many words to give his reasons. The rule is too well settled to warrant hunting up decisions on it.

429. A resolution of inquiry to be privileged as such should not ask for opinions or require an investigation.

A resolution inquiring whether certain agencies "Claim exemption" was held to require an investigation.

On September 29, 1917,[3] Mr. Halvor Steenerson, of Minnesota, moved to discharge the Committee on Agriculture from the further consideration of a resolution inquiring of the President of the United States whether the United States Food Administration in attempting to control the price of wheat and establish a fixed price "claims exemption from the antitrust laws of the United States."

Mr. Finis J. Garrett, of Tennessee, made the point of order that the resolution not only asked for an opinion but in inquiring whether exemption was claimed required an investigation.

The Speaker[2] sustained the point of order on the ground that the resolution both called for an expression of opinion and required an investigation, either of which was sufficient to destroy the privilege claimed.

430. A resolution of inquiry asking for for "reasons" was held to be a request for an opinion rather than for facts and therefore not entitled to privileges.

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[1] Second session Sixty-fourth Congress, Record, p. 2188.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixty-fifth Congress, Journal, p. 426; Record, p. 7470.

On February 11, 1919,[1] Mr. Charles E. Fuller, of Illinois, offered, as privileged, a motion to discharge the Committee on Interstate and Foreign Commerce from the further consideration of the following:

Resolved, That the President, if not incompatible with the public interest, be requested to communicate to the House what, if any, reasons exist for the War Trade Board to refuse license to American manufacturers to export manufactured goods to citizens of neutral countries with which we are not and have not been at war; and what, if any, reasons exist for the refusal of the said War Trade Board to permit American manufacturers to communicate with their customers in such countries in regard to future business.

Mr. John N. Garner, of Texas. made the point of order that the resolution called for an expression of opinion.

The Speaker[2] sustained the point of order.

431. A resolution of inquiry asking for facts justifying a specified action was held to ask for an opinion and therefore to be without privilege.

The reference to the calendar of a resolution of inquiry does not operate to deprive it of any privilege it may possess.

On February 20, 1919,[3] Mr. Charles E. Fuller, of Illinois, called up as privileged the following resolution:

Resolved, That the President, if not incompatible with the public interest, be requested to communicate to the House what, if any, facts exist to justify the War Trade Board in refusing license to American manufacturers to export manufactured goods to citizens of neutral countries with which we are not and have not been at war; and what, if any, facts exist to justify the refusal of the said War Trade Board to permit American manufacturers to communicate with their customers in such countries in regard to future business.

Mr. John N. Garner, of Texas, made the point of order that the resolution, having been reported by the committee and placed on the calendar, was no longer privileged.

The Speaker[2] overruled the point of order.

Mr. Henry D. Flood, of Virginia, then raised the question of order that in calling for facts justifying an action the resolution asked for an expression of opinion.

The Speaker sustained the point of order.

432. While Cabinet officers are frequently summoned to testify before committees either voluntarily or by subpoena, they are no longer called to give information on the floor of the House.

A resolution of inquiry to enjoy its privileges should not require an investigation.

Instance wherein the Speaker, desiring further time for consideration of a point of order, reserved his decision until the following day.

A resolution calling upon an executive officer to give his reasons for pursuing any certain course of action is out of harmony with the principles governing the use of privileged resolutions of inquiry.

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[1] Third session Sixty-fifth Congress, Record, p. 3140.

[2] Champ Clark, of Missouri, Speaker.

[3] Third session Sixty-fifth Congress, Record, p. 3867.

A resolution of inquiry asking "why" certain action has been taken is a request for opinions and is not admissible under the rule.

On February 11, 1908,[1] Mr. George Edmond Foss, of Illinois, from the Committee on Naval Affairs, reported as privileged the following resolution:

Resolved, That the Secretary of the Navy inform the House of Representatives why a considerable reduction is being made in the skilled labor force employed at the Washington Navy Yard and at other navy yards of the country.

Mr. James R. Mann, of Illinois, submitted the point that the resolution, in asking for reasons, failed to come within the rule.

After debate, the Speaker[2] said:

Without intimating an opinion as to whether the point of order is or is not well taken, the Chair would prefer that the matter go over until tomorrow morning.

On the following day,[3] after the reading and approval of the Journal, the Speaker announced.

Yesterday, just before adjournment, a point of order was made to a resolution reported from the Committee on Naval Affairs, which was briefly argued. The Chair sustains the point of order, and it is proper, very briefly, to assign the reasons therefor.

The provision of the resolution offered by the gentleman from Illinois, calling upon the Secretary of the Navy to state his reasons for the action referred to, presents a new aspect of a principle already settled. The House from its earliest history has exercised and cherished its prerogative of calling on the Executive for information and documents. In 1792, at the very beginning of the Government, the House decided that the Secretaries of the President's Cabinet should not be called personally to the floor of the House to give information, and concluded that written information should be furnished instead. From that time until this no Cabinet officer has given information on the floor of the House, although they have been frequently called before committees to testify, either voluntarily or by subpoena.

Resolutions calling for written information and for documents have in the later years of the House been given a privileged status, but the precedents show that this privilege has been confined within somewhat strict lines. It is allowable to call upon the head of a Department for a statement of facts within the knowledge of his Department, but whenever an attempt has been made to call for opinions or to direct the officer to make an investigation, it has been held that these provisions destroy the privilege of the resolution of inquiry.

It is not necessary to cite here the precedents in these cases, as they are well known to the membership of the House.

The Chair is of the opinion that a call upon an executive officer for a statement of his reasons is likewise out of harmony with the principles governing the use of these resolutions. It would tend to create discussion and debate between the executive and legislative branches and would not assist in the orderly and proper transaction of the public business.

433. The President declined to submit to the Senate in response to its request certain papers touching the London Naval Treaty of 1930 on the ground that such compliance would be incompatible with the public interest.

A resolution addressed to the President requesting the transmission of papers having been offered, the Senate modified it by incorporation of the clause "if not incompatible with the public interest."

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[1] First session Sixtieth Congress, Record, p. 1793.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Record, p. 1829.

On July 10, 1930[1] (legislative day of July 8), in the Senate, Mr. Kenneth McKellar, of Tennessee, moved this resolution:

Whereas on June 12, 1930, the Senate Committee on Foreign Relations by resolution requested the Secretary of State to send it the letters, minutes, memoranda, instructions, and dispatches which were made use of in negotiations prior to and during the sessions of the recent conference at London; and

Whereas that committee received only a part of such documents; and

Whereas the Secretary of State, by direction of the President, denied a second request from the Foreign Relations Committee for the papers above described, and in his letter to the chairman of that committee the Secretary of State has apparently attempted to establish the doctrine that the treaty of London must be considered by the Senate "from the language of the document itself and not from extraneous matter"; and

Whereas that committee dissented from such doctrine and regarded all facts which enter into the antecedent or attempted negotiation of any treaty as relevant and pertinent when the Senate is considering a treaty for the purpose of ratification; and

Whereas that committee continued to assert its rights as the designated agent of the Senate to have full and free access to all records, files, and other information touching the negotiation of the treaty, such right being based on the constitutional prerogative of the Senate in the treaty-making process; and

Whereas the chairman of that committee transmitted a copy of those resolutions to the President and Secretary of State; and

Whereas the President and Secretary of State refused to submit the papers and documents requested by the Foreign Relations Committee: Now, therefore, be it

Resolved, That the President be, and he is hereby, requested, if not incompatible with the public interest, to submit to the Senate, with such recommendation as he may make respecting their use, all letters, cablegrams, minutes, memoranda, instructions, and dispatches and all records, files, and other information touching the negotiations of said London naval treaty, to the end that the Senate may be able to do and perform its constitutional obligations with respect to advising and consenting to and ratifying such treaty or rejecting same.

On motion of Mr. Joseph T. Robinson, of Arkansas, an amendment inserting the clause "if not incompatible with the public interest" was agreed to and the resolution as amended was adopted.

On July 11, the President[2] replied by message[3] as follows:

I have received Senate Resolution No. 320, asking me, if not incompatible with the public interest, to submit to the Senate all letters, cablegrams, minutes, memoranda, instructions, and dispatches, and all records, files, and other information touching the negotiations of the London naval treaty.

This treaty, like all other international negotiations, has involved statements, reports, tentative and informal proposals as to subjects, persons, and governments given to me in confidence. The Executive, under the duty of guarding the interests of the United States, in the protection of future negotiations, and in maintaining relations of amity with other nations, must not allow himself to become guilty of a breach of trust by betrayal of these confidences. He must not affront representatives of other nations, and thus make future dealings with those nations more difficult and less frank. To make public in debate or in the press such confidences would violate the invariable practice of nations. It would close to the United States those avenues of information which are essential for future negotiations and amicable intercourse with the nations of the world. I am sure the Senate does not wish me to commit such a breach of trust.

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[1] Second session Seventy-first Congress, Record, p. 88.

[2] Herbert Hoover, of California, President.

[3] Senate Doc. No. 216.

I have no desire to withhold from the Senate any information having even the remotest bearing upon the negotiation of the treaty. No Senator has been refused an opportunity to see the confidential material referred to, provided only he will agree to receive and hold the same in the confidence in which it has been received and held by the Executive. A number of Senators have availed themselves of this opportunity. I believe that no Senator can read these documents without agreeing with me that no other course than to insist upon the maintenance of such confidence is possible. And I take this opportunity to repeat with the utmost emphasis that in these negotiations there were no secret or concealed understandings, promises, or interpretations, nor any commitments whatever except as appear in the treaty itself and in the interpretive exchange of notes recently suggested by your Committee on Foreign Affairs, all of which are now in the hands of the Senate.

In view of this, I believe that to further comply with the above resolution would be incompatible with the public interest.

On receipt of the message Mr. George W. Norris, of Nebraska, proposed the following reservation:

Reservation proposed by Mr. Norris to the treaty for the limitation and reduction of naval armament signed at London on April 22, 1930, by the plenipotentiaries of the President of the United States of America; the President of the French Republic; His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, Emperor of India; His Majesty the King of Italy; and His Majesty the Emperor of Japan, submitted to the Senate by the President of the United States on the last day of May, 1930.

Whereas in the consideration of said treaty the Senate, on the 10th day of July, 1930, requested the President of the United States to submit to the Senate all letters, cablegrams, minutes, memoranda, instructions, and dispatches and all record files and other information touching the negotiations of said treaty; and

Whereas the President of the United States has declined to comply with said request, and the Senate therefore, in acting upon said treaty, has been compelled to do so without any opportunity to give consideration to the letters, memoranda, and other documents and communications leading up to the drafting of said treaty or in negotiating the same: Therefore be it

Resolved by the Senate, That in ratifying said treaty the Senate does so with the distinct and explicit understanding that there are no secret files, documents, letters, understandings, or agreements which in any way, directly or indirectly, modify, change, add to, or take away from any of the stipulations, agreements, or statements in said treaty; and that the Senate ratifies said treaty with the distinct and explicit understanding that there is no agreement, secret or otherwise, expressed or implied, between any of the parties to said treaty as to any construction that shall hereafter be given to any statement or provision contained therein.

This reservation, with the preamble omitted, was agreed to by the Senate on July 21,[1] in the following form:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Executive I, Seventy-first Congress, second session, a treaty for the limitation and reduction of naval armament, signed at London on April 22, 1930.

Resolved further, That in ratifying said treaty the Senate does so with the distinct and explicit understanding that there are no secret files, document, letters, understandings, or agreements which in any way, directly or indirectly, modify, change, add to, or take away from any of the stipulations, agreements, or statements in said treaty; and that the Senate ratifies said treaty with the distinct and explicit understanding that, excepting the agreement brought about through the exchange of notes between the Governments of the United States, Great Britain, and Japan having reference to Article XIX, there is no agreement, secret or otherwise, expressed or implied, between any of the parties to said treaty as to any construction that shall hereafter be given to any statement or provision contained therein.

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[1] Record p. 390.

434. Instance wherein the Secretary of War declined to respond to an inquiry of the House on grounds of incompatibility with the public interest.

The Speaker may not treat as confidential official communications received from the heads of executive departments.

While a rule of the House provides for secret sessions, it is long obsolete, and the convening of the House in secret session is a procedure unprecedented for more than a century.

On June 25, 1910,[1] the House agreed to the following resolution:

Resolved, That the Secretary of War be, and he is hereby, directed, if not incompatible with the public interest, to submit to this House, with the least practicable delay, a report showing in detail—

First. The condition of the military forces and defenses of the Nation, including the Organized Militia.

Second. The state of readiness of this country for defense in the event of war, with particular reference to its preparedness to repel invasion if attempted (a) on the Atlantic or Gulf coasts, or (b) on the Pacific coast.

Third. The additional forces, armaments, and equipments necessary, if any, to afford reasonable guaranty against successful invasion of United States territory in time of war.

In response to this resolution the Secretary of War, on December 14, addressed to the Speaker a communication for presentation to the House, a portion of which was marked "Confidential."

To this communication the Speaker replied:

SPEAKER'S ROOM,
HOUSE OF REPRESENTATIVES,
Washington, D.C., December 14, 1910.

SIR: I herewith return your communication of December 14, in order that you may consider it in the light of the condition which arises in the House of Representatives. You have marked a portion of it confidential.

Rule XXX of the House provides:

"SECRET SESSION.

"Whenever confidential communications are received from the President of the United States, or whenever the Speaker or any Member shall inform the House that he has communications which he believes ought to be kept secret, the House shall be cleared of all persons except the Members and officers thereof, and so continue during the reading of such communications, the debates and proceedings thereon, unless otherwise ordered by the House."

Another rule of the House (Rule XLII) provides:

"EXECUTIVE COMMUNICATIONS.

Estimates of appropriations and all other communications from the executive departments, intended for the consideration of any committees of the House, shall be addressed to the Speaker, and by him referred as provided by clause 2 of Rule XXIV."

And still another rule of the House (sec. 1 of Rule XLV) provides:

"PRINTING.

"1. All documents referred to committees or otherwise disposed of shall be printed unless otherwise specially ordered."

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[1] Second session Sixty-first Congress, Record, p. 9105.

In view of the above rules it is practically impossible for the Speaker to treat this matter as "confidential," if it is to be brought to the attention of the House. I therefore respectfully return it to you.

This is done in view of the fact that your communication must be printed under the rules, and it is returned to you for such action as you may deem necessary, having in mind the language of the resolution as to the public welfare and in view of the fact that your communication can not be made confidential under our system without submitting it to a secret session, which would be a procedure unprecedented for nearly a century, and would probably result in at once bringing the matter into great publicity.

I am, with respect, etc.,

Yours truly,

J. G. CANNON.

Hon. J. M. DICKINSON,
Secretary of War, Washington, D. C.

On December 17,[1] 1910, the Speaker laid before the House the following:

WAR DEPARTMENT,
Washington, December 17, 1910.

SIR: In reply to your letter of December 14, returning my report of that date on House resolution No. 707, I beg to say that all of the facts which it is deemed proper should at this time proceed from the Secretary of War and be made public appear in the reports of the Secretary of War already submitted to Congress and the reports accompanying them. Inasmuch as you have returned to me my reply of December 14, 1910, with the appendices thereto attached, marked "Confidential," with the advice that it is practically impossible for you to treat the matters therein contained as confidential, by direction of the President, I respectfully say that it is not compatible with the public interest for me at this time to make a report answering in detail the questions embodied in the resolution.

Very respectfully,

J. M. DICKINSON,
Secretary of War.

Hon. J. G. CANNON,
Speaker of the House of Representatives.

435. The head of a department having failed to respond to a resolution of inquiry, the House transmitted a further resolution.

A resolution of inquiry, to enjoy its privilege, should call for facts rather than for opinions.

Discussion of the right of the House to send for original papers from the files of the department.

Instance wherein a resolution held to be without privilege was altered to conform to the requirements of the rule.

On August 1, 1919,[2] Mr. Thomas L. Blanton, of Texas, moved to discharge the Committee on Labor from the consideration of the following resolution which had been referred to the committee more than a week before, a previous resolution of similar tenor having been denied by the Secretary of Labor on the ground that transmission of the information was not deemed compatible with the public interest:

Resolved, That the Secretary of Labor be, and he is hereby, directed to report forthwith to the House of Representatives of the United States of America the following facts:

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[1] Third session Sixty-first Congress, Record, p. 448; Journal, p. 91.

[2] First session Sixty-sixth Congress, Record, p. 3524.

(1) What fact or facts, if any there are, have caused him to fail to comply with the request of the House of Representatives made upon him by H. Res. 128 passed by the House of Representatives on June 27, 1919, of the following tenor:

"Resolved, That the Secretary of Labor be, and he is hereby, requested to promptly report to the House of Representatives at the earliest date practicable the following facts:

"(1) What connection in behalf of the Department of Labor, if any, has John B. Densmore, now Director of the United States Employment Service, had with the case of Thomas J. Mooney, convicted in California of crime, stating in detail the activities of said Densmore concerning said case, and the expenses of same itemized that were paid by the Government, and upon what authority of law, attaching copies of all reports concerning same made to the Department of Labor by said John B. Densmore.

"(2) What connection in behalf of the Department of Labor, if any, since the punishment of said Thomas J. Mooney was commuted to life imprisonment, has any employee of said Department of Labor had with the said case of Thomas J. Mooney, stating such activities in detail, the purposes thereof, the expense itemized in connection therewith that has been paid or is to be paid by the Government, and upon what authority of law, attaching copies of all reports made to the Department of Labor concerning said case.

"(3) What requests on the Department of Labor, if any, have been made by a grand jury or a court in California for said John B. Densmore to appear in California to give evidence, and what action concerning same was taken by the Department of Labor."

(2) *Resolved further,* That said Secretary of Labor be, and he is hereby, directed to furnish forthwith to the House of Representatives the facts called for in the said H. Res. 128, set forth above, as passed June 27, 1919.

Mr. Finis J. Garrett, of Tennessee, made the point of order that the resolution was a request for reasons and not for facts.

The Speaker [1] said:

The Chair thinks it is a close question whether by verbally asking for only facts one does comply with the rule of the House, which says that the House can always ask for facts and nothing but facts. The Chair is disposed to think that, while in language a strict compliance with the rule, it really does ask for the reasons and opinion of the Secretary of Labor, and the Chair sustains the point of order.

On August 12, 1919,[2] Mr. Blanton moved to discharge the same committee from the consideration of a further resolution relating to the same subject, which had been referred more than a week previously:

Resolved, That the Secretary of Labor be, and he is hereby, directed to report forthwith to the House of Representatives of the United States of America the following facts:

(1) Copies of all such instructions mentioned by John B. Densmore as having been received by him during the months of May, June, July, August, September, and October, 1918.

(2) The names of all persons who, under the direction of any branch of the Department of Labor, had anything to do with the investigation of Thomas J. Mooney, charged with and convicted for heinous crime in California, stating in detail their respective activities, the amount of compensation paid them respectively, and the expenses of such investigation itemized in detail during the six months between May 1 and November 1, 1918.

(3) What connection in behalf of the Department of Labor, if any, since the punishment of said Thomas J. Mooney was commuted to life imprisonment, and since November 1, 1918, has any employee of the Department of Labor had with said case of Thomas J. Mooney, stating such activities in detail, the expense of same itemized in detail, and upon what authority of law, attaching copies of all reports made thereunder to the Department of Labor.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Record, p. 3802; Journal, p. 376.

(4) What activities, if any, are now being conducted in behalf of Thomas J. Mooney.

(5) Attach copies of vouchers of McPherson, Kelly, and Kilmer for July, 1918, covering their trip from San Francisco to Los Angeles, the purpose of such trip and expense of same itemized.

(6) Attach copy of letter of instructions sent by John B. Densmore to H. L. Cobb after Cobb was sent to Texas on propaganda trip for Employment Bureau and expense of trip itemized in detail.

(7) Attach all reports of Gallagher and Martin for their six weeks spent in Philadelphia, spring of 1919, investigating F.R. Welsh, with statement of expenses fully itemized in detail.

Mr. Joseph Walsh, of Massachusetts, made a point of order against the privilege of the resolution on the grounds that the phrases "what activities, if any" and "the purpose of such trip" called for an expression of opinion, and also that the phrase "in behalf of" involved an interpretation on the part of the Secretary of Labor.

Mr. Philip P. Campbell, of Kansas, raised the further point that under the law original copies from the files of the departments were not subject to requisition and certified copies only might be requested.

The Speaker said:

No authority has been cited to show that the House has not the right to order originals sent here. While it might be wise to amend the resolution, the Chair does not see how that question affects his decision.

These resolutions of inquiry are part of the privileges of the House. A resolution of inquiry is an engine which the House has to extort information from an administration, and it always indicates that the administration is unwilling to communicate certain facts which the House wishes to have; and so it seems to the Chair that the Chair ought, as a rule, in his decisions to lean in favor of the privileges of the House. The only privilege that this resolution has now is because the committee has failed to report it within seven days.

Now, the point of order which has been raised is that this resolution asks for an opinion rather than for facts.

The Chair thinks that while the language here and there throughout the resolution is inaccurate, as evidenced, for example, in the objection to section 6, to attach copies of letters sent "after Cobb was sent to Texas"—which is somewhat indefinite and vague—yet after all when the House asks for instructions from the department it is not presumed to know the exact facts and can not be precise in its averments, because otherwise there would be no reason for asking for the information, and therefore all that the House can do in the resolution is make its inquiry so definite that the department shall know what is intended and be able to determine whether the House is acting within its rights.

The only clause which gives the Chair any serious difficulty is clause 4. To clause 5, to be sure, the objection is made that the purpose of such a trip involves the expression of an opinion. But the Chair thinks it pretty clear that what is intended there is not the purpose in the mind of the man who made the trip, but the purpose of the department in sending him, and the Chair thinks that is a proper fact for Congress to ask for.

The fourth paragraph is "what activities, if any, are now being conducted in behalf of Thomas J. Mooney." That is vague. If it said, "What activities, if any, are now being conducted by the Department of Labor," the Chair thinks it would be very clear. But inasmuch as in the previous paragraphs it speaks of the activities of the Department of Labor, and inasmuch as the whole resolution is directed to the Department of Labor and the inquiry is made of that department, the Chair thinks it is not stretching the language but is a reasonable and fair interpretation to say that that means "what activities, if any, are now being conducted by the Department of Labor in behalf of Thomas J. Mooney"; and therefore the Chair overrules the point of order, and decides that the resolution is privileged.

Adjournment intervening, the resolution was agreed to on a subsequent day.[1]

[1] Record, p. 3869; Journal, p. 380.

436. While it is customary to use the clause "If not incompatible with the public interest" in resolutions of inquiry addressed to the President and to the State Department, it is not ordinarily used in resolutions addressed to other executive departments.

On March 1, 1910,[1] Mr. George E. Foss, of Illinois, from the Committee on Naval Affairs, submitted as privileged a report on a resolution requesting certain information from the Secretary of the Navy, with the following amendment:

Line 1, after "navy," insert "if not incompatible with the public interests."

Mr. James R. Mann, of Illinois, said:

Mr. Speaker, may I ask what is the object of putting in that provision, "if not incompatible with the public interest?"

It is usual in addressing the President and is usual in addressing the State Department on diplomatic matters, but it is not the usual form in addressing an ordinary department asking for information. We direct the department to send us information. We determine whether we want it or not, where it does not affect our diplomatic relations, and I hope the gentleman will not insist upon that amendment.

Where we want simply some plain information which the department has, it does not seem to me dignified for the House to insert that saving clause when directing information to be sent here which it knows the department has and of which we can judge just as well as the department as to whether it is incompatible with the public interests; it certainly is not the custom of the House to put those words in, and the Senate is extremely particular about striking them out.

Thereupon the amendment was rejected, and the resolution was agreed to without amendment.

437. Executive departments in response to resolutions of inquiry may not comment on debate in the House, include explanations tending to vindicate action by the department or enter into argument not specifically requested.

The House declines to receive from executive departments communications reflecting upon the House or any Member thereof.

On April 11, 1918,[2] the Speaker laid before the House a communication from the Postmaster General reflecting upon the Member introducing the resolution of inquiry in response to which the communication was written.

Mr. Clarence B. Miller, of Minnesota, moved that the House decline to receive the communication.

A motion by Mr. Finis J. Garrett, of Tennessee, to table Mr. Miller's motion was rejected, yeas 165, nays 165.

Mr. Miller then withdrew his motion and offered in lieu thereof a motion, that the communication be referred to a committee of five to be appointed by the Speaker. A motion by Mr. Garrett to lay on the table was rejected, yeas 172, nays, 175, and the motion to refer having been agreed to, the Speaker appointed the committee, which submitted the following report on April 19:[3]

Mr. CARAWAY, from the special committee appointed by the Speaker on the 11th day of April, 1918, in response to a resolution adopted by the House of Representatives to inquire into

[1] Second session Sixty-first Congress, Record, p. 2596.

[2] Second session Sixty-fifth Congress, Record, p. 4974.

[3] Record, p. 3363, Journal, p.305.

certain remarks alleged to have been included in a letter addressed to the Postmaster General by the chairman of the Committee on Public Information and by the Postmaster General transmitted to the House of Representatives on April 10, 1918, which language so complained of is as follows: "When Mr. Treadway stated in the House that he was 'reliably informed that there has been a very large amount of that class of mail matter sent over,' and 'it is a well-known fact that great quantities of that class of matter have been placed in their hands overseas,' he made assertions the absolute baselessness of which could have been ascertained by a telephone inquiry," begs leave to make the following report:

After a careful search of the precedents, the committee finds that the House of Representatives has uniformly refused to receive and make a part of its records communications reflecting upon the House as a whole or any Member thereof.

December 14, 1842, the Speaker laid before the House a communication from S. Pleasonton, Fifth Auditor of the Treasury Department, which was as follows:

"TREASURY DEPARTMENT,
"FIFTH AUDITOR'S OFFICE,
"December 14, 1842.

"SIR: In a report of a debate in the House of Representatives on Monday last, contained in the National Intelligencer of yesterday, it is stated that Mr. Sprigg, among other things, observed: 'He remembered, too, that the House at this instance had made a call upon the department (Treasury) for full and detailed information as to the whole system of managing the lighthouses of the United States, the contracts for buildings, for supplying oil, paying inspectors, etc., but no answer had ever been obtained, notwithstanding the clerks which the House had voted them and notwithstanding numerous and repeated promises made to him personally.'

"It was with extreme surprise I read this statement, as I had a perfect recollection that it was wholly erroneous; and as it is calculated, uncorrected, to injure the Treasury Department unjustly in the public estimation, I hope you and the House will excuse me for setting the Member right.

"It is sufficient to state that the whole of the information called for by the House in relation to lighthouses on Mr. Sprigg's motion was transmitted, as required by the resolution, partly to the Committee on Commerce on the 8th of March last and is contained in their printed report, No. 811, and partly to the House of Representatives direct by the Secretary of the Treasury on the 11th of March last, and by the House ordered to be printed, and will be found in Document No. 140 of the last session. These two documents contain all the information which was called for by the House.

"Mr. Sprigg individually called for the cessions of jurisdiction by the States over all the lighthouse sites, from the adoption of the Constitution; and, although so much labor and time as it required might have been declined on his individual call, yet, as I was desirous of furnishing all the information in my power to every person who sought it, the information was prepared and furnished as far as it was to be found in the office.

"I have the honor to be, very respectfully, your obedient servant,

"S. PLEASONTON.

"Hon. JOHN WHITE,
"Speaker of the House of Representatives."

The communication was by the House, after full consideration, adjudged objectionable and a resolution adopted as follows:

"Resolved, That the communication addressed to the Speaker of this House by S. Pleasonton on the 14th instant in relation to some remarks made in the House before that time by Mr. Sprigg, a Member from Kentucky, which paper was received by the Speaker and laid before the House without knowledge of its contents, was not such a communication as ought to have been received and presented to the House; that the same be withheld from the Journal and files of the House and the original be returned to the writer." (See Congressional Globe, 3d sess. 27th Cong., p. 101.)

In 1848 Mr. Medill, the Commissioner of Indian Affairs, addressed the following communication to the House of Representatives:

"To the honorable the House of Representatives of the United States:

"During the debate which took place in the House of Representatives on an amendment made by the Senate to the civil and diplomatic bill allowing to David Taylor the sum of $12,800 for a certain reservation claimed by him under the treaties of 1817 and 1835 with the Cherokees, as reported in the National Intelligencer of this morning, I find the following, viz:

"Mr. Clinman supported the claim and took occasion to warn the committee against any opposition which might have been made to it by Mr. Medill, the Commissioner of Indian Affairs, who, he understood, had endeavored to prejudice the claim because the agents of the claimant peremptorily refused to make an allowance for his favoring the claim. Mr. C. denounced the Indian Bureau as thoroughly corrupt. He had been credibly informed that the books in that bureau had been altered and falsified for corrupt purposes (though this, he believed, had been done during the incumbency of Mr. Crawford, the predecessor of the present commissioner). He had no confidence in Mr. Medill, nor would he believe any statement he should make. An application had been made to the department to have the books taken out of his office and deposited in some place where they would be safe from alterations."

"It is seldom that a public officer is justified in noticing attacks of this kind, but the above charges are of so grave and specific a character and so seriously reflect not only upon myself, personally and officially, but upon the administration of the whole of that branch of the public service entrusted to my charge that a different course on this occasion seems to be called for."

The House on the same day it was read adopted the following resolution:

"Resolved, That the communication of the Commissioner of Indian Affairs be returned to that officer, and that he be informed that this House considers the language thereof as offensive and indecorous."

This appears in a report of the second session of the Thirtieth Congress, date August 12, 1848, page 1070 of the Congressional Globe.

On the 3d day of February, 1865, the Senate adopted a resolution requesting the Secretary of the Navy for certain information. In answer to the resolution the Secretary of the Navy transmitted a letter from the Assistant Secretary of the Navy in which the Assistant Secretary undertook to reply to a speech that had before that time been made by Senator Hale on the floor of the Senate. This communication from the Secretary of the Navy was referred to the Committee on the Judiciary of the Senate for its consideration. On March 4, 1865, the committee reported as follows:

"The only information that the Secretary was instructed to give was in relation to the particular matters mentioned in the resolution. What may have been said by Senators, while it was under consideration, was not submitted to him either for approval or censure, nor was he called upon or authorized to vindicate himself or any person in his department from allegations made or supposed to have been made in the Senate. However, the person supposing himself assailed is not without redress; he may appeal to the public judgment through the press or request the Senate to constitute a committee of inquiry as to the truth of the charges; but there exists no right in an officer of the Government, in answer to specific inquiries, to comment on the debates of the body nor to vindicate his conduct, either individually or officially, in any matters not called for in the inquiries of the Senate. If differences exist between any member of the Senate and a citizen not a member, it is not the proper province of the body to settle them. Their duties are limited to matters proper for legislation or to such as refer to the public good and require investigation.

"With these views it is the opinion of your committee that the letter of the Assistant Secretary of the Navy, as accompanying the communication of the Secretary, should not have been sent to the Senate by the latter officer:

"1. Because the first part of it does not profess to relate to the Senate resolution but to be in response to the allegations of Hon. John P. Hale against the writer.

"2. Because the remainder of it merely gives a history of his conduct in attempting to relieve the garrison of Fort Sumter in 1861, an attempt worthy of praise, but which has not the most remote connection with a single inquiry embraced by the resolution.

"The committee therefore recommend the adoption of this resolution.

"'*Resolved,* That the letter to the Secretary of the Navy from the Assistant Secretary should not have been communicated in answer to the Senate resolution of February 3, 1865, and that the Secretary of the Senate be directed to return the same to the Secretary of the Navy.'"

The resolution was adopted and the communication returned to the Secretary of the Navy.

These proceedings are reported in the second session of the Thirty-eighth Congress on page 1365 of the Congressional Globe.

The House likewise refused to receive a message of Mr. Roosevelt, the President of the United States, in which there were statements calculated to reflect upon Members of Congress, and adopted the following resolution:

"Resolved, That the House in the exercise of its constitutional prerogatives declines to consider any communication from any source which is not in its own judgment respectful; and be it further

"Resolved, That the special committee and the Committee of the Whole House on the state of the Union be discharged from any consideration of so much of the President's annual message as relates to the Secret Service and is above set forth, and that the said portion of the message be laid on the table."

The language contained in the communication to the Postmaster General and attributed to the chairman of the Committee on Public Information is, in the opinion of the committee, impertinent and not respectful. In the language of the report of the Committee on the Judiciary in the Hale case, "there exists no right in an employee of the Government in answer to specific inquiries to comment on the debates of the body nor to vindicate his conduct, either individually or officially, in any matters not called for in the inquiries."

With these views it is the opinion of this committee that the letter of the chairman of the Committee on Public Information should not be received by the House. Therefore be it

"Resolved, That the Clerk of the House is hereby directed to respectfully return the communication containing the same to the Postmaster General."

The report was agreed to without division or debate: